

**TENNESSEE
AUCTIONEER COMMISSION
MINUTES**

DATE: March 1, 2010

PLACE: Andrew Johnson Tower – 2nd Floor Conference Room
710 James Robertson Parkway
Nashville, Tennessee

PRESENT: Commission Members:
Bobby Colson, Chairman; David Cole, Vice Chairman; Marvin Alexander,
Kenneth Dreaden; and Mary Francis Rudy

PRESENT: Staff Members:
Donna Hancock, Director
Adrian Chick, Staff Attorney
Susan Lockhart, Executive Administrative Assistant

GUESTS: Wendell L. Hanson
Rhessa Orr
Dan Blackwell
Darla Blackwell

CALL TO ORDER: Chairman Colson called the meeting to order at 9:20 a.m. and the following business was transacted:

Ms. Hancock called the roll. All five Commission members were present.

AGENDA: Ms. Rudy made a motion to adopt the agenda as amended, seconded by Mr. Alexander. **MOTION CARRIED. (Agenda Attached.)**

MINUTES: Mr. Alexander made a motion to approve the minutes of the last meeting, seconded by Mr. Dreaden. **MOTION CARRIED.**

VINCE TROTTER: The public automobile auction and public automobile auctioneer applications submitted by Mr. Vincent Trotter were scheduled next on the agenda. Ms. Hancock advised that Mr. Trotter could not attend the meeting and that Mr. Chick recommended that the applications not be reviewed until Mr. Trotter could be present. Mr. Chick's recommendation was accepted and these items were dropped from the agenda.

DAN BLACKWELL: Mr. Dan Blackwell appeared before the Commission wanting to know "what a gallery license is." A discussion ensued. The Commission informed Mr. Blackwell that he held the

proper license in order to conduct a gallery auction business. Mr. Blackwell complained that he paid a lot of money to get his license yet others in his area were not in compliance and that the others let local auctioneers “firm” their galleries. The Commission asked Mr. Blackwell to file complaints or notify the commission office of any alleged wrong doings. Mr. Blackwell stated that he would not.

Ms. Rudy left the meeting at 9:40 a.m. and returned at 9:44 a.m. during this discussion.

NASHVILLE AUCTION SCHOOL (NAS) – RHESSA ORR

Ms. Orr presented an update of their activities to the Commission. She advised that the she expected the draft of the next newsletter to be presented to the staff for revision in the next couple of days and reminded everyone that the next seminar on behalf of the Commission will be held on March 23, 2010 in Germantown. Mr. Cole inquired about the East Tennessee seminar and Ms. Orr advised that a date has not been set but she believes it will be held in the Tri-Cities area.

ADMINISTRATIVE REPORT – DONNA HANCOCK, DIRECTOR

Complaint Statistics Report: Ms. Hancock presented a comparison of the complaints currently pending to the complaints pending at this time last year. She advised that there are currently fifty-two (52) open complaints and nineteen (19) of them have been open for more than one hundred eighty (180) days. She also advised that the assistant commissioner has developed weekly reports regarding the status of complaints and each director is working with the attorneys to review the status of the complaints to ensure they are being processed in a timely manner. She advised that even though we have received more complaints this year than last year, they are being processed with more oversight.

Exam Statistics: Ms. Hancock presented a summary of the examination statistics from the testing center for 2008 and 2009. The report listed the total examinations taken for each type of auctioneer license and their pass/fail rates.

All Star Professional Training, Inc.: Ms. Hancock presented a continuing education course application from All Star Professional Training, Inc. for review. Mr. Dreaden made a motion to approve the application, seconded by Ms. Rudy. **MOTION CARRIED.**

EDJ School On-Line, Inc.: Ms. Hancock presented a continuing education course application from EDJ School Online, Inc. for review. Mr. Dreaden made a motion to approve the application, seconded by Ms. Rudy. **MOTION CARRIED.**

Nashville Auction School: Ms. Hancock presented five continuing education course applications from Nashville Auction School for review. Mr. Dreaden made a motion to approve the applications, seconded by Mr. Alexander. **MOTION CARRIED.**

Grant Helton: Ms. Hancock presented a request from Mr. Grant Helton to waive the thirty (30) hour auctioneer course required for him to test and reapply for licensure as an auctioneer. Ms.

Rudy made a motion to deny the request and require him to take the course prior to examination, seconded by Mr. Cole. **MOTION CARRIED.**

Leslie Meek: Ms. Hancock presented a request from Mr. Leslie Meek to waive the examination required for him to reapply for licensure as an auctioneer. Mr. Alexander made a motion to waive the retesting requirement, seconded by Mr. Dreaden. **MOTION CARRIED.**
The Commission recessed at 10:35 a.m. and reconvened at 10:45 a.m.

BREAK – The Commission recessed from 10:35 a.m. to 10:45 a.m.

MEETING RESUMED -

LEGAL REPORT - ADRIAN CHICK, STAFF ATTORNEY

Mr. Chick advised that **Complaint No. 2009023411** is not listed on the Legal Report but he would like to present it to the board at this time. He asked Mr. Cole to recuse himself.

Complaint: Auctioneer attended auction, purchased approximately \$4,000 of goods, and paid with a bad check.

Response: None received.

Recommendation: Summary Suspension and set for hearing.

MOTION: Ms. Rudy made a motion to issue a summary suspension as the public's health and safety imperatively requires it and to authorize a hearing, seconded by Mr. Dreaden. (Mr. Cole recused himself and did not vote) **ALL APPROVED. MOTION CARRIED.**

Mr. Chick then presented the following Legal Report for consideration:

1. Complaint No. 2009023441

Complaint: The Complainant states that he was solicited by Respondent's firm to send scooters at an upcoming auction. The parties agreed upon a reserve for the units, but were sold well below this price.

Response: No response.

Prior Complaints: Numerous, related complaints.

Recommendation: Authorization for hearing.

2. Complaint No. 2009015411

Complaint: The Complainant was solicited by Respondent's firm to send vehicles, including boats, for auction. Respondent misled Complainant into the selling prices of similar vehicles, and even sold three boats below a reserve amount stated on the contract.

Response: No response.

Prior Complaints: Numerous, related complaints.

Recommendation: Authorization for hearing.

MOTION: Regarding complaints 2009023441 and 2009015411 - Ms. Rudy made a motion to issue a summary suspension as the public's health and safety imperatively requires it and authorize a hearing, seconded by Mr. Dreaden. ALL APPROVED. MOTION CARRIED.

3. Complaint No. 2009011511

Complaint: This complaint was tabled from the last meeting. This complaint alleges that the Respondent auctioneer auctioned automobiles on June 20, 2009 without being licensed as a public automobile auctioneer.

Response: The Respondent states that the auction was held "for the Estate of (decedent)", but that the home being sold belonged to the decedent's son, and the son also wanted to liquidate automobiles acquired for use in his personal business.

Recommendation: Documents obtained from investigations shows that at least twenty (20) automobiles were offered at the auction. Consent Order assessing civil penalty of \$2,000 plus \$560 costs for investigation and authorization for hearing.

MOTION: Mr. Alexander made a motion to table this complaint until information regarding the Corvette auction in Knoxville is obtained, seconded by Mr. Dreaden. **Votes:** Alexander-yes; Dreaden-yes; Colson-yes; Cole-yes; and Rudy-no. By a vote of four (4) to one (1), MOTION CARRIED.

4. Complaint No. 2010001921

Complaint: This complaint is based upon an advertisement that reads, "Selling Absolute above minimum starting bid". The complaint alleges that because there was a reserve, it should not have been listed "absolute"

Response: The Respondent states that the ad very clearly indicated how the sale would proceed. After starting the bidding at a certain price, the auction would proceed "absolute", meaning that the seller could not bid himself, the property could not be withdrawn, and the seller would deliver marketable title.

Prior Complaints: None.

Recommendation: Dismiss.

MOTION: Mr. Dreaden made a motion to accept Legal's recommendation, seconded by Mr. Cole. **MOTION CARRIED.**

5. **Complaint No. 2009027011**

6. **Complaint No. 2009027021**

Complaint: One Respondent is an auctioneer with an expired license and the other Respondent is a firm with an expired license. The complaint was originally opened due to failure to list valid license number. Two separate auctions were advertised while the licenses were expired.

Response: The Respondent states that the wrong number was listed and was unaware the licenses were expired.

Prior Complaints: None.

Recommendation: Consent Order assessing civil penalty of \$2,000 against each respondent, and authorization for hearing.

MOTION: Mr. Dreaden made a motion for a consent order assessing a civil penalty of \$1,000 against each respondent, that a license not be issued until the complaints are satisfied with the Commission, and authorization for a hearing; seconded by Ms. Rudy. **MOTION CARRIED.**

Mr. Dreaden left the meeting at 11:53 a.m. and returned at 11:55 a.m.

7. **Complaint No. 2009025152**

8. **Complaint No. 2009025151**

Complaint: The respondent auctioned a truckload of furniture with proceeds of approximately \$3,000 in September, 2009. The Respondents have not paid the proceeds to the complainant.

Response: No response.

Prior Complaints: None.

Recommendation: Consent Order for Voluntary Suspension of Licenses/ for 90 days and civil penalty of \$1000, and authorization for hearing.

MOTION: Ms. Rudy made a motion to issue a summary suspension as the public's health and safety imperatively requires it until the respondent makes restitution to the complainant, issue a civil penalty for \$1000, and authorize a hearing; seconded by Mr. Alexander. MOTION CARRIED.

Mr. Alexander asked if the letter regarding Complaint No. 2009018451 had been sent yet. Mr. Chick advised that it has not.

Mr. Alexander requested that notification of a change of firm be included in renewal notices for auctioneers and require the sponsor's information for a non-auction firm. Ms. Hancock advised that that a space requesting information regarding a change in firm information is listed on the renewal notices but it is not required to be signed by a representative of the firm.

Mr. Dreaden left the meeting at 12:30 p.m.

Unfinished Business: Ms. Hancock advised that the letter that the Commission instructed her to send to the Motor Vehicle Commission during their last meeting on 2/1/10 had not been sent yet because she had not received approval of the final draft from Chairman Colson. Chairman Colson replied that Mr. Alexander was currently reviewing it.

Ms. Lockhart asked the Commission to clarify when a public automobile auction firm license is required. It was agreed upon that the law requires only public automobile auctions and public automobile auctioneers may sell cars to the public, regardless of the number, unless the auction meets the exemptions under TCA 62-19-103 or the vehicles meet the exemptions under motor vehicle laws regarding antique or unique vehicles.

Being no further business to discuss the meeting adjourned at 1:00 p.m.

Bobby Colson, Chairman

David Cole, Vice-Chairman

Marvin Alexander

Kenneth Dreaden

Mary Francis Rudy